IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.7446 of 1995

Between:

Sri Vijayarama Gajapathi Coop. Sugars Ltd., Bhimasingi
rep.by its Managing Director P.Veerabhadra Rao

..... PETITIONER

AND

1 The Industrial Tribunal Cum Labour Court Visakhapatnam
rep.by its Chairman and Presiding Officer
2 B.R.K.Varma S/o.Jagannadharraju
Opp:Mandal Office D.No.10-11, Pendurthi
Visakhapatnam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records relating and leading to the passing of award Dt.25/1/95 passed by the 1st respondent in ID.No.30/94 published in GO.Rt.No.419 Labour, Employment and Training (Lab-I) Department, Dt.24/2/95 Government of Andhra Pradesh and quash the same as illegal and void by issuing writ, order or direction, more particularly a writ in the nature of certiorari under Art.226 of the Constitution of India.

Counsel for the Petitioner: Mr. M.S.R.SUBRAHMANYAM

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.3: Mr. B. ADINARAYANA RAO

The Court made the following :

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ORAL ORDER:

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This writ petition is filed by the Management aggrieved by an Award dated 25-1-1995 in I.D.No.30 of 1994 on the file of the Industrial Tribunal-cum-Labour Court, Visakhapatnam, wherein the following reliefs are granted to the respondent-workman.

1. Setting aside the order of termination from service passed against the petitioner and the following is substituted:

2. The respondent-management is directed to reinstate the petitioner with 50% of back wages till the date of reinstatement and without past increments for a period of one year after reinstatement into service;

3. The management is directed to reinstate the petitioner immediately within a month after receiving the copy of this award;

4. In the circumstances of the case, no costs.

There is no dispute that the respondent-workman was appointed as Pump Attendant in the petitioner-management from 20-12-1976 and his services were regularized with effect from 9-12-1982. While so, he applied for leave from 20-7-1992 to 29-7-1992 and overstayed. Therefore, his services were terminated with effect from 8-9-1992. Admittedly, the termination was effected on the ground that the workman absented from duties. No enquiry known to law was conducted and no procedure as required under the law was followed before terminating the services of the workman. The Labour Court, therefore, rightly came to the conclusion that the termination of the services of the respondent-workman with effect from 8-9-1992 was

in gross violation of provisions of Section 25-F of the Industrial Disputes Act,1947 (for short 'the Act'). However, the absence of the workman for the period from 30-7-1992 to 10-8-1992 was stated to be on medical grounds. The Labour Court found that the workman and the management were both at fault. Under those circumstances, the Labour Court held that the punishment imposed by the management was in haste and also in violation of provisions of Section 25F of the Act and the respondent-workman was not entitled for full back wages, but he was entitled for 50% of the back wages only. The Labour Court also held that the workman was not entitled for past increments for a period of one year after reinstatement. Aggrieved by the same, the present writ petition is filed by the management.

Learned counsel for the petitioner-management submits that the respondent-workman absented from duties unauthorizedly and there is a deeming provision under the Regulations of the petitioner-organization. Therefore, the question of terminating the services of the workman after following the provisions of Section 25F of the Act does not arise.

I am afraid, I cannot accede to the said contention. The Labour Court has rightly came to the conclusion that the services of the respondent-workman were terminated in gross violation of provisions of Section 25F of the Act and passed the award as noticed above. Generally, once it is found that there is a gross violation of provisions of Section 25-F of the Act, the workman is entitled for full back wages. But, in the instant case, the Labour Court found that both the management and the workman were at fault; therefore, granted only 50% of back wages instead of full back wages. Further, it may be noticed that though the termination order was passed on 8-9-1992, the workman raised the Industrial Dispute under Section 2-A(2) of the Act in the year 1994. Therefore, I am of the considered opinion that the Labour Court has not committed any error in coming to the conclusion that the workman is entitled for reinstatement into service with 50% of back wages. The Writ Petition is devoid of merits and liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

09-12-2004

prk

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Chairman and Presiding Officer, Industrial Tribunal-

cum-Labour Court, Visakhapatnam
2 B.R.K.Varma S/o.Jagannadharraju
Opp:Mandal Office D.No.10-11, Pendurthi,
Visakhapatnam District.

3. 2CCs to G.P. for Labour, High Court Buildings, Hyderabad (OUT)

4. 2CD copies

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